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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 SECURITIES AND EXCHANGE
12 COMMISSION,

13 Plaintiff,

14
15 vs.

16 JOHNNY TSENG (a/k/a Kuanhao J.
17 Tseng, Kuanhao Tseng), KEVIN
18 ZHANG (a/k/a Kevin Huapeng Zhang,
19 Huapeng Zhang), and
20 SUMMITCREST CAPITAL, INC.,
21

22 Defendants.
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Case No. 5:23-cv-01488-JGB(KKx)

**FINAL JUDGMENT AS TO
DEFENDANT SUMMITCREST
CAPITAL, INC.**

1 The Securities and Exchange Commission having filed a Complaint and
2 Defendant Summitcrest Capital, Inc. (“Summitcrest” or “Defendant”) having entered
3 a general appearance; consented to the Court’s jurisdiction over Defendant and the
4 subject matter of this action; consented to entry of this Final Judgment as to
5 Defendant without admitting or denying the allegations of the Complaint (except as
6 to jurisdiction and except as otherwise provided herein in paragraph VII); waived
7 findings of fact and conclusions of law; and waived any right to appeal from this
8 Final Judgment:

9 I.

10 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is
11 permanently restrained and enjoined from violating, directly or indirectly, Section
12 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. §
13 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using
14 any means or instrumentality of interstate commerce, or of the mails, or of any
15 facility of any national securities exchange, in connection with the purchase or sale of
16 any security:

- 17 (a) to employ any device, scheme, or artifice to defraud;
18 (b) to make any untrue statement of a material fact or to omit to state a
19 material fact necessary in order to make the statements made, in the light
20 of the circumstances under which they were made, not misleading; or
21 (c) to engage in any act, practice, or course of business which operates or
22 would operate as a fraud or deceit upon any person.

23 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as
24 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also
25 binds the following who receive actual notice of this Final Judgment by personal
26 service or otherwise: (a) Defendant’s officers, agents, servants, employees, and
27 attorneys; and (b) other persons in active concert or participation with Defendant or
28 with anyone described in (a).

1 II.

2 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
 3 Defendant is permanently restrained and enjoined from violating Section 17(a) of the
 4 Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)] in the offer or sale
 5 of any security by the use of any means or instruments of transportation or
 6 communication in interstate commerce or by use of the mails, directly or indirectly:

- 7 (a) to employ any device, scheme, or artifice to defraud;
 8 (b) to obtain money or property by means of any untrue statement of a
 9 material fact or any omission of a material fact necessary in order to
 10 make the statements made, in light of the circumstances under which
 11 they were made, not misleading; or
 12 (c) to engage in any transaction, practice, or course of business which
 13 operates or would operate as a fraud or deceit upon the purchaser.

14 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as
 15 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also
 16 binds the following who receive actual notice of this Final Judgment by personal
 17 service or otherwise: (a) Defendant’s officers, agents, servants, employees, and
 18 attorneys; and (b) other persons in active concert or participation with Defendant or
 19 with anyone described in (a).

20 III.

21 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
 22 Defendant is permanently restrained and enjoined from violating Section 5 of the
 23 Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any
 24 applicable exemption:

- 25 (a) Unless a registration statement is in effect as to a security, making use of
 26 any means or instruments of transportation or communication in
 27 interstate commerce or of the mails to sell such security through the use
 28 or medium of any prospectus or otherwise;

- 1 (b) Unless a registration statement is in effect as to a security, carrying or
2 causing to be carried through the mails or in interstate commerce, by any
3 means or instruments of transportation, any such security for the purpose
4 of sale or for delivery after sale; or
- 5 (c) Making use of any means or instruments of transportation or
6 communication in interstate commerce or of the mails to offer to sell or
7 offer to buy through the use or medium of any prospectus or otherwise
8 any security, unless a registration statement has been filed with the
9 Commission as to such security, or while the registration statement is the
10 subject of a refusal order or stop order or (prior to the effective date of
11 the registration statement) any public proceeding or examination under
12 Section 8 of the Securities Act [15 U.S.C. § 77h].

13 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as
14 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also
15 binds the following who receive actual notice of this Final Judgment by personal
16 service or otherwise: (a) Defendant's officers, agents, servants, employees, and
17 attorneys; and (b) other persons in active concert or participation with Defendant or
18 with anyone described in (a).

19 IV.

20 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to
21 Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)], Defendant is
22 permanently restrained and enjoined from, directly or indirectly, including, but not
23 limited to, through any entity owned or controlled by Defendant, participating in the
24 issuance, purchase, offer, or sale of any security.

1 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as
2 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also
3 binds the following who receive actual notice of this Final Judgment by personal
4 service or otherwise: (a) Defendant's officers, agents, servants, employees, and
5 attorneys; and (b) other persons in active concert or participation with Defendant or
6 with anyone described in (a).

7 V.

8 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
9 Defendant is liable for disgorgement of \$16,600,000.00, representing net profits
10 gained as a result of the conduct alleged in the Complaint, together with prejudgment
11 interest thereon in the amount of \$4,349,481.52, on a joint and several basis, pursuant
12 to Sections 21(d)(5) and 21(d)(7) of the Exchange Act [15 U.S.C. § 78u(d)(5) and 15
13 U.S.C. § 78u(d)(7)]; and a civil penalty in the amount of \$2,232,280.00, pursuant to
14 Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the
15 Exchange Act [15 U.S.C. § 78u(d)(3)]. Defendant shall satisfy this obligation by
16 paying \$23,181,761.52 to the Securities and Exchange Commission within 30 days
17 after entry of this Final Judgment.

18 Defendant may transmit payment electronically to the Commission, which will
19 provide detailed ACH transfer/Fedwire instructions upon request. Payment may also
20 be made directly from a bank account via Pay.gov through the SEC website at
21 <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified
22 check, bank cashier's check, or United States postal money order payable to the
23 Securities and Exchange Commission, which shall be delivered or mailed to

24 Enterprise Services Center

25 Accounts Receivable Branch

26 6500 South MacArthur Boulevard

27 Oklahoma City, OK 73169

28 and shall be accompanied by a letter identifying the case title, civil action number,

1 and name of this Court; Summitcrest as a defendant in this action; and specifying that
2 payment is made pursuant to this Final Judgment.

3 Defendant shall simultaneously transmit photocopies of evidence of payment
4 and case identifying information to the Commission's counsel in this action. By
5 making this payment, Defendant relinquishes all legal and equitable right, title, and
6 interest in such funds and no part of the funds shall be returned to Defendant.

7 The Commission may enforce the Court's judgment for disgorgement and
8 prejudgment interest by using all collection procedures authorized by law, including,
9 but not limited to, moving for civil contempt at any time after 30 days following entry
10 of this Final Judgment.

11 The Commission may enforce the Court's judgment for penalties by the use of
12 all collection procedures authorized by law, including the Federal Debt Collection
13 Procedures Act, 28 U.S.C. § 3001 *et seq.*, and moving for civil contempt for the
14 violation of any Court orders issued in this action. Defendant shall pay post
15 judgment interest on any amounts due after 30 days of the entry of this Final
16 Judgment pursuant to 28 U.S.C. § 1961. The Commission shall hold the funds,
17 together with any interest and income earned thereon (collectively, the "Fund"),
18 pending further order of the Court.

19 The Commission may propose a plan to distribute the Fund subject to the
20 Court's approval. Such a plan may provide that the Fund shall be distributed
21 pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of
22 2002. The Court shall retain jurisdiction over the administration of any distribution
23 of the Fund and the Fund may only be disbursed pursuant to an Order of the Court.

24 Regardless of whether any such Fair Fund distribution is made, amounts
25 ordered to be paid as civil penalties pursuant to this Final Judgment shall be treated as
26 penalties paid to the government for all purposes, including all tax purposes. To
27 preserve the deterrent effect of the civil penalty, Defendant shall not, after offset or
28 reduction of any award of compensatory damages in any Related Investor Action

1 based on Defendant's payment of disgorgement in this action, argue that it is entitled
2 to, nor shall it further benefit by, offset or reduction of such compensatory damages
3 award by the amount of any part of Defendant's payment of a civil penalty in this
4 action ("Penalty Offset"). If the court in any Related Investor Action grants such a
5 Penalty Offset, Defendant shall, within 30 days after entry of a final order granting
6 the Penalty Offset, notify the Commission's counsel in this action and pay the amount
7 of the Penalty Offset to the United States Treasury or to a Fair Fund, as the
8 Commission directs. Such a payment shall not be deemed an additional civil penalty
9 and shall not be deemed to change the amount of the civil penalty imposed in this
10 Final Judgment. For purposes of this paragraph, a "Related Investor Action" means a
11 private damages action brought against Defendant by or on behalf of one or more
12 investors based on substantially the same facts as alleged in the Complaint in this
13 action.

14 VI.

15 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the
16 Consent is incorporated herein with the same force and effect as if fully set forth
17 herein, and that Defendant shall comply with all of the undertakings and agreements
18 set forth therein.

19 VII.

20 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court
21 shall retain jurisdiction of this matter for the purposes of enforcing the terms of this
22 Final Judgment.
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VIII.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated: October 20, 2023



UNITED STATES DISTRICT JUDGE